

September 4, 2020

Mr. John Canoles
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: 6020 Foxhall Manor Drive
Forest Conservation Variance
Tracking #01-20-3297

Dear Mr. Canoles:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on August 14, 2020. If granted, the variance would allow removal of four (4) specimen trees in order to subdivide the property into five residential lots. The 4.9-acre site currently contains one single-family dwelling. Eight (8) specimen trees and no forest exist on the property. The four specimen trees to be removed include a 39.5-inch diameter-at-breast-height (DBH) silver maple and a 42.5-inch DBH silver maple, both in poor condition, along with a 49.5-DBH weeping willow and a 31-inch DBH exotic chestnut, both of which are nonnative species. Four additional specimen trees exist on the property that will not be impacted.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner to show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The applicant is seeking to develop the property into five residential, single-family lots. Given that one dwelling already exists on the property, the owner is already realizing beneficial use of the property. Additionally, it would be possible for the number of proposed lots to be reduced in order to avoid specimen tree

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impacts. Consequently, full application of the law would not deprive the applicant of all beneficial use of the property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires the petitioner to show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to the number and distribution of specimen trees on the property constraining development design rather than the general conditions of the neighborhood. Therefore, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires the petitioner to show that the special variance, as requested, will not alter the essential character of the neighborhood. The surrounding neighborhood consists of residential areas of similar density to the proposed development. Therefore, we find that granting this variance will not alter the essential character of this neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. Removal of the four specimen trees will not impact any streams, wetlands, floodplains, or their buffers, as none exist onsite or on adjacent properties. The project will also conform to the latest stormwater management requirements and erosion and sediment controls. Therefore, this Department finds that the proposed variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires the Director of EPS to find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. Although four specimen trees are proposed for removal as a result of this project, four other specimen trees will be retained and protected during construction. Furthermore, the applicant will be providing 0.7 acre of afforestation through the purchase of credit in a County-approved forest planting bank, or through payment of a fee-in-lieu if no bank credit is available. In light of these findings, we find that this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and that this criterion has been met.

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Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. The following note on all subsequent plans for this development project:

“A variance was granted on September 4, 2020 by Baltimore County Dept. of Environmental Protection and Sustainability to remove four (4) specimen trees. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met.”
2. Mitigation is not required for removal of the four specimen trees due to either their poor condition or because they are nonnative species.
3. This variance approval does not exempt future development activities at this site from compliance with Baltimore County’s Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

DVL/lbe

- c. Mr. Steve Smith, Gaylord Brooks
Mr. Terence Healy, Owner
Mr. Mike Pieranunzi, Century Engineering
Ms. Marian Honeczy, Maryland Department of Natural Resources

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I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Owner's Signature

Date

Printed Name